

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE KURIAN JOSEPH**

**MONDAY, THE 30TH JULY 2007 / 8TH SRAVANA 1929**

**WP(C).No. 16960 of 2004(R)**  
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**PETITIONER:**  
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**SASIDHARAN, S/O.MADHAVAN,  
PARAMBATH HOUSE, KARUVISSERY POST, KOZHIKODE.**

**BY ADV. SRI.VINOD VALLIKAPPAN.**

**RESPONDENTS:**  
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- 1. THE DISTRICT EXECUTIVE OFFICER,  
KERALA MOTOR TRANSPORT WORKERS WELFARE FUND BOARD,  
KOZHIKODE.**
- 2. THE COMMISSIONER AND SECRETARY,  
LABOUR AND REHABILITATION DEPARTMENT,  
THIRUVANANTHAPURAM.**

**BY ADV. SRI.P.RAMAKRISHNAN, SC,KMTWF BOARD,  
GOVT. PLEADER SRI. MANOJ.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 30/07/2007, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**W.P.(C). NO.16960/2004:**

**APPENDIX**

**PETITIONER'S EXHIBITS:**

**EXT.P.1: COPY OF THE DETERMINATION ORDER DTD. 23/09/2003 OF R.1.**

**EXT.P.2 SERIES: COPY OF THE TEMPORARY PERMITS.**

**EXT.P.3: COPY OF THE ORDER DTD. 21/05/1999 OF R.2.**

**EXT.P.4: COPY OF THE APPEAL FILED BY PETITIONER BEFORE R.2. DTD. 24/12/03 AND STAY PETITION.**

**EXT.P.5: COPY OF THE ORDER OF R.2. DTD. 31/03/04.**

**RESPONDENT'S EXHIBITS: NIL.**

**//TRUE COPY//**

**prv.**

**KURIAN JOSEPH, J.**

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**W.P. (C). NO. 16960 OF 2004**  
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**Dated this the 30<sup>th</sup> day of July, 2007.**

**J U D G M E N T**

Petitioner is aggrieved by Exhibit P5 order whereby his appeal under the provisions of the Kerala Motor Transport Workers' Welfare Fund Act was rejected on the only ground of delay.

2. It is the contention of the petitioner that if time is computed from the date of receipt of the determination order, there is no delay. Learned Standing Counsel submits that the petitioner had in fact received a copy earlier and appeal was rejected.

3. Be that as it may. Having regard to the submission that Exhibit P1 order was received only on 08.12.2003 and in the interest of justice I am of the view that, it is only appropriate that Government considers the matter on merits, particularly in view of the fact that there is no counter despite the pendency of the writ petition for three years.

Accordingly, Exhibit P5 is set aside. There will be a direction to the second respondent to consider Exhibit P4 appeal

on merits with notice to the petitioner and pass appropriate orders thereon in accordance with law within a period of four months from the date of receipt of a copy of this judgment. There shall be no recovery till such time.

This writ petition is disposed of as above.

**KURIAN JOSEPH, JUDGE.**

smp